



# Howard County

## Internal Memorandum

**Subject:** Testimony – Orchard Crossing Apartments PILOT

**To:** Lonnie R. Robbins, Chief Administrative Officer

**From:** Stacy L. Spann, Director  
Housing and Community Development

**Date:** October 29, 2007

Resolution 136 -2007 approves the terms and conditions of a First Amendment to Payment in Lieu of Taxes Agreement (the "First Amendment") by and between ODC Crossing Limited Partnership ("ODC") and Howard County, Maryland for a multi-family rental housing project known as Orchard Crossing Apartments. The First Amendment extends the term of the Payment in Lieu of Taxes Agreement ("PILOT"), originally executed in 1994, to November 1, 2017.

### Background

ODC constructed the 187-unit Orchard Crossing Apartment multi-family rental housing project in 1996 using financing from the State of Maryland's Department of Housing and Community Development. As a condition of the State financing, at least 51% of the apartment units in the project must be rented to persons with incomes of no more than 60% of the Baltimore area median income for a period of 31½ years.

In addition to the State loans, Howard County provided financing for the project in the form of the PILOT. Under its terms, in lieu of payment of County property taxes, ODC is required to pay to the County a portion (4%) of its gross rental income from the project. To the extent funds are available in any given year, ODC is also required to pay additional amounts from the surplus cash and residual receipts of the project, up to the full amount of taxes otherwise due.

As a condition of the PILOT, the County also required ODC to restrict the occupancy of 51% of the units to persons of low income for a period of 31½ years. By its terms, the PILOT terminates upon, among other things, the repayment of the State loans. The low income restrictions, however, continue in force.

### The First Amendment

ODC has applied for a loan from Deutsche Bank Berkshire Mortgage, Inc., to refinance the project. The refinance loan will repay the State loans which would therefore terminate the PILOT. However, the low income covenants will continue until 2026.

In April 2007, ODC requested that the County continue and extend the term of the PILOT until July 1, 2017. ODC has demonstrated that the PILOT is necessary in order to maintain the affordability of the low income units.

On June 4, 2007, the County Council approved Resolution No. 61-2007 to extend the term of the PILOT until July 1, 2017. Due to changes in market conditions, however, the refinancing did not close until October 25, 2007. ODC and Deutsche Bank therefore request that the County continue and extend the term of the PILOT until November 1, 2017.

### Fiscal Impact

As stated above, PILOT payments are based upon cash flows of the project. ODC has made the following payments under the PILOT for the past 11 years:

<b>Tax Year</b>	<b>PILOT Amount</b>	<b>Tax Amount</b>	<b>Difference</b>
1996	\$16,936	\$100,000*	\$83,064
1997	\$26,865	\$100,000*	\$73,135
1998	\$29,935	\$100,000*	\$70,065
1999	\$30,528	\$105,872	\$75,344
2000	\$32,372	\$107,514	\$75,142
2001	\$32,177	\$109,156	\$76,979
2002	\$36,384	\$110,245	\$73,861
2003	\$38,533	\$111,002	\$72,469
2004	\$43,013	\$111,206	\$68,193
2005	\$44,683	\$111,410	\$66,727
2006	\$45,939	\$115,088	\$69,149
<b>TOTAL</b>	<b>\$377,365</b>	<b>\$1,181,493</b>	<b>\$804,128</b>

(\*estimated)

For the next 10 years, based upon projected cash flows, ODC estimates the following PILOT payments:

<b>Tax Year</b>	<b>PILOT Amount</b>	<b>Tax Amount</b>	<b>Difference</b>
2007	\$48,173	\$116,239	\$68,066
2008	\$50,478	\$117,401	\$66,923
2009	\$52,856	\$118,575	\$65,719
2010	\$55,309	\$119,761	\$64,452
2011	\$57,840	\$120,958	\$63,118
2012	\$60,451	\$122,169	\$61,718
2013	\$63,144	\$123,390	\$60,246
2014	\$65,921	\$124,623	\$58,702
2015	\$68,786	\$125,870	\$57,084
2016	\$71,741	\$127,129	\$55,388
<b>TOTAL</b>	<b>\$594,699</b>	<b>\$1,216,115</b>	<b>\$621,416</b>

It is estimated that the extension of the PILOT term from July 1, 2017 to November 1, 2017, will result in a loss of approximately \$18,000 in County tax revenues.

The Howard County Department of Housing and Community Development recommends approval of the Resolution.

cc: Ken Ulman, County Executive  
Jennifer Sager, Legislative Coordinator